

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA

v.

PAUL J. MANAFORT, JR.,

Defendant.

Case No. 1:18-cr-83 (TSE)

**NON-CONFIDENTIAL MEMORANDUM IN SUPPORT OF
MOTION FOR LEAVE TO FILE EXHIBIT UNDER SEAL**

Pursuant to LCrR 49(A), (D), and (E), the United States of America, by and through Special Counsel Robert S. Mueller, III, hereby files this motion for leave to file under seal one exhibit to the Government's Response to Defendant Paul J. Manafort, Jr.'s (Manafort) Motion to Dismiss the Superseding Indictment. Pursuant to LCrR 49(D) and (E), the government is also filing a confidential supporting memorandum.

1. On February 22, 2018, the grand jury returned a multi-count indictment alleging that Manafort committed crimes in connection with payments he received from Russia-backed political entities in the Ukraine. Doc. 9. Manafort has moved to dismissing the indictment. Doc. 30. He challenges the validity of the Acting Attorney General's order appointing the Special Counsel and defining his jurisdiction; further argues that this prosecution falls outside of the scope of the Special Counsel's jurisdiction even if the order appointing him is valid; and finally claims that the remedy for these purported defects is to dismiss the indictment for the Court's asserted lack of jurisdiction and the government's asserted violation of the Federal Rules of Criminal Procedure.

2. On April 10, 2018, the government filed its response to Manafort's motion. The government attached several exhibits, including a memorandum on "[t]he Scope of Investigation and Definition of Authority" conferred on the Special Counsel. Memorandum from Rod J. Rosenstein to Robert S. Mueller, III (Aug. 2, 2017) (*August 2 Scope Memorandum*). See generally *United States v. Libby*, 498 F. Supp. 2d 1, 28-29, 31-32, 39 (D.D.C. 2007) (relying on similar materials in challenges to the scope of a Special Counsel's authority); *United States v. Oakar*, 924 F. Supp. 232, 240-241 (D.D.C. 1996) (similar, and also considering material proffered by the government), *aff'd in part, rev'd in part on other grounds*, 111 F.3d 146 (D.C. Cir. 1997).

As explained in the response, the *August 2 Scope Memorandum* is classified and otherwise contains confidential and sensitive law enforcement information. The portions of the memorandum quoted in the response are not classified or law enforcement sensitive. The government attached a redacted version as an exhibit (Attachment C) to its response.

3. The government respectfully requests permission to file under seal a less-redacted version of the *August 2 Scope Memorandum*. The Court has the inherent authority to order that exhibits be filed under seal, by balancing the relevant interests. See *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984); LCrR 49(A), (D), and (E). As discussed in the accompanying confidential memorandum, allowing the government to file this version under seal is an appropriate way to balance the various interests at stake.

In the case being heard in the District for the District of Columbia, the government moved to file the same version of the same exhibit under seal, and the court granted the motion. 4/03/18 Minute Order, No. 1:17-cr-201-ABJ (D.D.C.). The defendant accordingly has access to the document. But to ensure that this Court has access to the same document, the government respectfully suggests that it would be appropriate to file the same exhibit under seal in this Court.

* * *

For the foregoing reasons, the Court should grant the government leave to file under seal the attached version of the *August 2 Scope Memorandum*.

Respectfully submitted,

ROBERT S. MUELLER III
Special Counsel

Dated: April 12, 2018

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of April, 2018, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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